

# House Amendment 1069

PAG LIN

1 1 Amend House File 587 as follows:  
1 2 #1. Page 5, by inserting after line 33, the  
1 3 following:  
1 4 <h. In the case of any officer, member of the  
1 5 board of directors, trustee, or designated manager of  
1 6 the program or any stockholder, partner, or individual  
1 7 who has greater than a ten percent equity interest in  
1 8 the program, who has or has had an ownership interest  
1 9 in an adult day services program, assisted living  
1 10 program, elder group home, home health agency,  
1 11 residential care facility, or licensed nursing  
1 12 facility in any state which has been closed due to  
1 13 removal of program, agency, or facility licensure or  
1 14 certification or involuntary termination from  
1 15 participation in either the medical assistance or  
1 16 Medicare programs, or who has been found to have  
1 17 failed to provide adequate protection or services for  
1 18 participants to prevent abuse or neglect.  
1 19 i. In the case of a certificate applicant or an  
1 20 existing certified owner or operator who is an entity  
1 21 other than an individual, the person is in a position  
1 22 of control or is an officer of the entity and engages  
1 23 in any act or omission proscribed by this chapter.>  
1 24 #2. Page 5, line 34, by striking the word <h.> and  
1 25 inserting the following: <j.>  
1 26 #3. Page 7, line 15, by inserting after the word  
1 27 <chapter,> the following: <including the conclusion  
1 28 of all appeals processes.>  
1 29 #4. Page 7, by striking lines 28 through 33, and  
1 30 inserting the following:  
1 31 <Sec. \_\_\_\_. Section 231D.11, Code 2005, is amended  
1 32 to read as follows:  
1 33 231D.11 PENALTIES.  
1 34 1. A person establishing, conducting, managing, or  
1 35 operating an adult day services program without a  
1 36 certificate is guilty of a serious misdemeanor. Each  
1 37 day of continuing violation after conviction or notice  
1 38 from the department of inspections and appeals by  
1 39 certified mail of a violation shall be considered a  
1 40 separate offense or chargeable offense. A person  
1 41 establishing, conducting, managing, or operating an  
1 42 adult day services program without a certificate may  
1 43 be temporarily or permanently restrained by a court of  
1 44 competent jurisdiction from such activity in an action  
1 45 brought by the state.  
1 46 2. ~~A person who prevents or interferes with or~~  
1 47 ~~attempts to impede in any way any duly authorized~~  
1 48 ~~representative of the department of inspections and~~  
1 49 ~~appeals in the lawful enforcement of this chapter or~~  
1 50 ~~of the rules adopted pursuant to this chapter is~~  
2 1 ~~guilty of a simple misdemeanor. As used in this~~  
2 2 ~~subsection, lawful enforcement includes but is not~~  
2 3 ~~limited to:~~  
2 4 a. ~~Contacting or interviewing any participant of~~  
2 5 ~~an adult day services program in private at any~~  
2 6 ~~reasonable hour and without advance notice.~~  
2 7 b. ~~Examining any relevant records of an adult day~~  
2 8 ~~services program.~~  
2 9 c. ~~Preserving evidence of any violation of this~~  
2 10 ~~chapter or of the rules adopted pursuant to this~~  
2 11 ~~chapter.~~  
2 12 3. ~~2.~~ A civil penalty, as established by rule,  
2 13 may apply in any of the following situations:  
2 14 a. Program noncompliance with one or more  
2 15 regulatory requirements has caused or is likely to  
2 16 cause harm, serious injury, threat, or death to a  
2 17 ~~recipient of program services participant.~~  
2 18 b. Program failure or refusal to comply with  
2 19 regulatory requirements within prescribed time  
2 20 frames.>  
2 21 #5. Page 8, line 31, by inserting before the word  
2 22 <Adult> the following: <l.>.  
2 23 #6. Page 8, by inserting after line 34, the  
2 24 following:

2 25 <2. A hospital licensed pursuant to chapter 135B,  
2 26 a health care facility licensed pursuant to chapter  
2 27 135C, or an assisted living program certified pursuant  
2 28 to chapter 231C may operate an adult day services  
2 29 program if the adult day services program is certified  
2 30 pursuant to this chapter.  
2 31 3. A certified adult day services program that  
2 32 complies with the requirements of this chapter shall  
2 33 not be required to be licensed or certified as another  
2 34 type of facility, unless the facility is represented  
2 35 to the public as another type of facility.>  
2 36 #7. By renumbering, redesignating, and correcting  
2 37 internal references as necessary.  
2 38  
2 39  
2 40 \_\_\_\_\_  
2 41 UPMEYER of Hancock  
2 42 HF 587.701 81  
2 43 pf/gg/336